

REMARKS

Claims 1-4, 6-15 and 17-22 are pending in the application. The Examiner's reconsideration of the rejections is respectfully requested in view of the remarks.

Applicants appreciate the Examiner's indication that Claims 3-11 and 14-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 1 has been rejected under 35 USC 103(a) as being unpatentable over McCanne (US 2003/0088696) in view of Yang-hua Chu et al (Enabling Conference Applications on the Internet using an Overlay Multicast Architecture). The Examiner stated essentially that the combined teachings of McCanne and Chu teach or suggest all the limitations of Claim 1.

Claim 1 has been amended to include, essentially, the limitations of allowable Claim 5. Therefore, Claim 1 is believed to be in condition for allowance. More particularly, the combined teachings of McCanne and Chu teach congestion control which drops packets to adapt to bandwidth mismatches (see Chu, page 57, lines 30-35). Dropping packets to adapt to bandwidth mismatches, is not analogous to "determining the overlay spanning tree comprising an origin node and at least one receiving node; determining a maximum throughput of the overlay spanning tree among all possible configurations of the overlay spanning tree; selecting a configuration of the overlay spanning tree having the maximum throughput" as claimed in Claim 1. Dropping packets does not teach or suggest how to determine throughput of configurations of an overlay spanning tree. Therefore, the combined teachings of McCanne and Chu fail to teach or suggest all the limitations of Claim 1.

The Examiner's reconsideration of the rejection is respectfully requested.

Claim 2 has been rejected under 35 USC 103(a) as being unpatentable over McCanne in view of Chu as applied to Claim 1, and further in view of Haas et al. (US 2005/0068954). The Examiner stated essentially that the combined teachings of McCanne, Chu and Haas teach or suggest all the limitations of Claim 2.

Claim 2 depends from Claim 1 and is believed to be allowable for at least the reasons given for Claim 1. Reconsideration of the rejection is respectfully requested.

Claim 12 has been rejected under 35 USC 103(a) as being unpatentable over McCanne in view of Liu et al. (US 2005/0068954). The Examiner stated essentially that the combined teachings of McCanne and Liu teach or suggest all the limitations of Claim 12.

Claim 12 has been amended to include the allowable limitations of Claim 16. Accordingly, Claim 12 is believed to be in condition for allowance. The Examiner's reconsideration of the rejection is respectfully requested.

Claim 13 has been rejected under 35 USC 103(a) as being unpatentable over McCanne in view of Liu as applied to Claim 12, and further in view of Haas. The Examiner stated essentially that the combined teachings of McCanne, Liu, and Haas teach or suggest all the limitations of Claim 13.

Claim 13 depends from Claim 12 and is believed to be allowable for at least the reasons given for Claim 12. Reconsideration of the rejection is respectfully requested.

For the forgoing reasons, the present application, including Claims 1-4, 6-15 and 17-22, is believed to be in condition for allowance. The Examiner's early and favorable action is respectfully urged.

Respectfully submitted,

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By: /Nathaniel T. Wallace/
Nathaniel T. Wallace
Reg. No. 48,909
Attorney for Applicant(s)

Mailing Address:
F. Chau & Associates, LLP
1900 Hempstead Turnpike
Suite 501
East Meadow, NY 11554
TEL: (516) 357-0091
FAX: (516) 357-0092